

AMENDED IN ASSEMBLY APRIL 1, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1348

Introduced by Assembly Member Lowenthal

February 21, 2003

~~An act to amend Section 25250.7 of the Health and Safety Code, relating to hazardous waste.~~ *An act to amend Sections 25250.7 and 25200.19 of, and to add Section 25160.6 to, the Health and Safety Code, and to add Section 42702 to the Public Resources Code, relating to hazardous and solid waste.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1348, as amended, Lowenthal. ~~Used Hazardous and solid waste oil mixtures.~~

(1) *Existing law requires any person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, to complete a manifest prior to the time the waste is transported or offered for transportation and to submit the manifest to the Department of Toxic Substances Control. A violation of the hazardous waste control laws is a crime.*

This bill would require a facility operator that rejects an entire shipment or partial shipment of hazardous waste to sign and date the manifest in a specified manner and would require the transporter of that hazardous waste to either return the entire or partial shipment to the generator, or transport the entire or partial shipment to an approved alternate designated facility agreed upon by the generator, in accordance with a specified procedure. The bill would provide that the

generator of a hazardous waste shipment rejected pursuant to this procedure is the designated facility for the receipt of the hazardous waste and that the facility operator that rejects an entire or partial shipment of hazardous waste is not the generator of that waste.

The bill would require a generator or transporter to instead comply, as specified, with federal regulations, if the Environmental Protection Agency adopts regulations pursuant to the Resource Conservation and Recovery Act of 1976 (RCRA).

Since a violation of these requirements would be a crime pursuant to other provisions of law, the bill would impose a state-mandated local program by creating new crimes.

(2) Existing law allows a hazardous waste facility that meets specified conditions to conduct bulk, packaged, or containerized unloading and loading operations, as defined, pursuant to specified criteria, including that the loading or unloading be conducted within secondary containment that meets the requirements of any regulations adopted by the department for bulk transfers.

This bill would instead require the secondary containment to be designed to allow the practical use of trucks and railcars, and would exclude that secondary containment from specified requirements for permitted tank and container storage areas. The bill would authorize the department to establish specific secondary containment standards for bulk transfer areas.

(3) Existing law defines “used oil” for purposes of the provisions regulating the handling of used oil and prohibits any person who generates, stores, or transfers used oil from intentionally contaminating used oil with other hazardous waste, except as specified. Existing law allows a used oil recycling facility to mix used oil with a contaminated petroleum product or with an oily waste, other than wastes listed as hazardous under specified federal law, under certain conditions. A violation of the laws regulating used oil is a crime.

This bill would allow a used oil transfer or recycling facility to mix used oil with a contaminated petroleum product or with an oily waste other than wastes listed as hazardous if the facility is authorized by the Department of Toxic Substances Control pursuant to a hazardous waste facilities permit, standardized permit, or other grant of authorization from the department. Since a violation of the bill’s requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(2)



(4) Existing law, the California Integrated Waste Management Act of 1989, requires the Director of Transportation, upon consultation with the California Integrated Waste Management Board, to review and modify all bid specifications relating to the purchase of specified paving materials and backfill materials using certain recycled materials. The act requires the State Procurement Officer, in purchasing materials to be used in paving or paving subbase for use by the Department of Transportation and other state agencies that provide road construction and repair services, to make contracts available for items that utilize recycled materials in paving materials and base, subbase, and previous backfill material, unless the Director of Transportation determines that the use of the materials is not cost-effective based on specified factors.

This bill would require the director and the board, on or before July 1, 2004, to jointly report to the Legislature concerning the implementation of those recycled paving materials provisions, as specified.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25160.6 is added to the Health and
2 Safety Code, to read:
3 25160.6. (a) (1) Except as provided in subdivision (d), a
4 facility operator that rejects an entire shipment of hazardous waste
5 shall sign and date the manifest and note "Shipment Rejected" in
6 the discrepancy indication space and specify the ultimate
7 destination of the hazardous waste in the special handling and
8 additional information space. The transporter shall either return
9 the shipment to the generator or transport the shipment to an
10 approved alternate designated facility agreed upon by the
11 generator, in accordance with the requirements of paragraph (2).
12 The signed and annotated manifest shall be returned to the
13 transporter.

1 (2) After a facility operator rejects an entire shipment of a
2 hazardous waste, the transporter shall transport the hazardous
3 waste, accompanied by the original manifest, to either the
4 generator or the alternate designated facility, as directed by the
5 facility operator on behalf of the generator. The transporter shall
6 obtain a signature on the manifest from the operator of the
7 alternate designated facility or the generator, whichever receives
8 the rejected shipment.

9 (b) (1) Except as provided in subdivision (d), a facility
10 operator that rejects a partial shipment of hazardous waste, shall
11 sign and date the manifest, note "Shipment Partially Rejected" in
12 the discrepancy indication space, identify the rejected portion of
13 the hazardous waste, and specify the ultimate destination of the
14 rejected hazardous waste in the special handling and additional
15 information space. The transporter shall either return the partially
16 rejected shipment to the generator or transport that partially
17 rejected shipment to an approved alternate designated facility
18 agreed upon by the generator pursuant to paragraph (2). A
19 photocopy of the signed and annotated manifest shall be returned
20 to the transporter.

21 (2) After a facility operator rejects a partial shipment, the
22 transporter shall transport the rejected hazardous waste,
23 accompanied by a photocopy of the original manifest, to either the
24 generator or the alternate designated facility, as directed by the
25 facility operator on behalf of the generator. The transporter shall
26 obtain a signed certification of receipt from the operator of the
27 alternate designated facility or generator, whichever receives the
28 rejected partial shipment. The generator or alternate designated
29 facility shall provide the department with the original signed
30 certification of receipt and a copy of the manifest within 30 days
31 after the date that the rejected partial shipment is received.

32 (c) (1) For purposes of receiving a hazardous waste shipment
33 rejected pursuant to this section, the generator of that hazardous
34 waste shall be considered the designated facility for the receipt of
35 the hazardous waste generated by that generator.

36 (2) A facility operator that rejects an entire shipment or a
37 partial shipment of hazardous waste pursuant to this section may
38 not be considered the generator of that hazardous waste for
39 purposes of this chapter, including any regulations adopted
40 pursuant to this chapter.

1 (3) For purposes of this section, “designated facility” has the
2 same meaning as defined in Section 66260.10 of Title 22 of the
3 California Code of Regulations.

4 (d) If the Environmental Protection Agency adopts regulations
5 pursuant to the federal act that are not consistent with the
6 requirements of this section, a generator and a transporter shall
7 instead comply with those regulations on and after the effective
8 date of those federal regulations, or on and after the effective date
9 of regulations adopted by the department in accordance with those
10 federal regulations, whichever date occurs first.

11 SEC. 2. Section 25200.19 of the Health and Safety Code is
12 amended to read:

13 25200.19. (a) A hazardous waste facility that ~~has obtained~~
14 obtains a hazardous waste facilities permit to receive hazardous
15 wastes from offsite locations may conduct bulk, packaged, or
16 containerized hazardous waste unloading operations in
17 accordance with the requirements of this section, except to the
18 extent that the facility is subject to conditions and limitations in the
19 permit concerning the receipt and unloading of hazardous wastes
20 from offsite locations.

21 (b) A hazardous waste facility that has a hazardous waste
22 facilities permit may conduct bulk, packaged, or containerized
23 hazardous waste loading operations in accordance with the
24 requirements of this section, except to the extent that the facility
25 is subject to conditions and limitations in the permit concerning the
26 shipment and loading for shipment of hazardous wastes to offsite
27 locations.

28 (c) Unloading and loading operations subject to subdivisions
29 (a) and (b) shall be conducted in accordance with all of the
30 following requirements, unless otherwise specified in the
31 hazardous waste facilities permit:

32 (1) As part of a loading or unloading operation conducted
33 within the boundary of a hazardous waste facility, the hazardous
34 waste shall not be held longer than 10 days outside of an authorized
35 unit at the facility. The hazardous waste shall be moved directly
36 between the authorized unit and the transport vehicle and shall not
37 be held for any time off the transport vehicle outside of the
38 authorized unit, except for that incidental period of time that is
39 necessary to safely and effectively move the waste from the

1 transport vehicle to the authorized unit or from the authorized unit
2 to the transport vehicle.

3 (2) All loading and unloading operations shall be conducted
4 within the boundary of the hazardous waste facility.

5 (3) There shall be adequate capacity within an authorized unit
6 at the hazardous waste facility for all hazardous waste being loaded
7 or unloaded in accordance with this section. Hazardous waste may
8 not be held on any transport vehicle which, if unloaded, would
9 exceed the permitted capacity of the originating or receiving unit
10 at the hazardous waste facility, unless the waste is held on the
11 transport vehicle as part of an authorized transfer operation.

12 (4) (A) The loading or unloading of bulk hazardous waste shall
13 be conducted within secondary containment within the hazardous
14 waste facility, unless otherwise approved by the department. Any
15 secondary containment required pursuant to this section shall ~~meet~~
16 ~~the requirements of any regulations adopted by the department for~~
17 ~~bulk transfers~~ *be designed to allow the practical use of trucks and*
18 *railcars and is not required to comply with the secondary*
19 *containment requirements for permitted tank and container*
20 *storage areas set forth in Section 66264.175 of Title 22 of the*
21 *California Code of Regulations.*

22 (B) *The department may establish specific secondary*
23 *containment standards for bulk transfer areas for purpose of*
24 *subparagraph (A), including the use of movable containment*
25 *devices or systems, consistent with the practical operation of bulk*
26 *transport vehicles.*

27 (d) For purposes of this section, the following definitions
28 apply:

29 (1) “Loading” means activities associated with removing
30 packaged or containerized hazardous waste from an authorized
31 unit or removing bulk hazardous waste from an authorized
32 container, tank, or unit within a permitted hazardous waste facility,
33 placing it on a transport vehicle within the facility, and shipping
34 the waste offsite to another location in accordance with this
35 chapter.

36 (2) “Transport vehicle” means a device, including a trailer, to
37 propel, move or draw hazardous wastes by air, rail, highway, or
38 water that is operated pursuant to the requirements of this chapter.

39 (3) “Unloading” means activities associated with the receipt of
40 bulk, packaged, or containerized hazardous waste at a permitted

1 hazardous waste facility from an offsite location, by means of a
2 transport vehicle, and placing that packaged or containerized
3 hazardous waste into an authorized unit or placing that bulk
4 hazardous waste into an authorized container, tank, or unit within
5 the facility in accordance with this chapter.

6 (e) The requirements of this section do not apply to hazardous
7 waste being held or transferred pursuant to subparagraph (B) of
8 paragraph (6) of subdivision (b) of Section 25123.3.

9 *SEC. 3.* Section 25250.7 of the Health and Safety Code is
10 amended to read:

11 25250.7. (a) Except as provided in subdivision (b) or (c), no
12 person who generates, stores, or transfers used oil shall
13 intentionally contaminate used oil with other hazardous waste
14 other than minimal amounts of vehicle fuel.

15 (b) A used oil transfer or recycling facility authorized by the
16 department pursuant to Section 25200, 25200.5, or 25201.6 may
17 mix used oil with a contaminated petroleum product or with an oily
18 waste other than wastes listed as hazardous under the federal act,
19 if both of the following conditions apply:

20 (1) If the resultant mixture is subject to regulation as a
21 hazardous waste under paragraph (2) of subsection (b) of Section
22 279.10 of Title 40 of the Code of Federal Regulations, it is
23 managed as a hazardous waste in accordance with all applicable
24 hazardous waste regulations.

25 (2) The resultant mixture is used to produce recycled oil, as
26 defined in paragraph (3) of subdivision (a) of Section 25250.1, at
27 a used oil recycling facility solely by means of a process that has
28 been specifically authorized by the department.

29 (c) A generator or transporter may mix used oil with one or
30 more contaminated petroleum products if the mixture is managed
31 in accordance with Section 25143.2 or if all of the following
32 conditions apply:

33 (1) If the resultant mixture is subject to regulation as a
34 hazardous waste under paragraph (2) of subsection (b) of Section
35 279.10 of Title 40 of the Code of Federal Regulations, it is
36 managed as a hazardous waste in accordance with all applicable
37 hazardous waste regulations.

38 (2) (A) Except as provided in subparagraph (B), the resultant
39 mixture is transported to a used oil recycling facility that issues a
40 statement, in writing, to the generator or transporter that the

1 mixture will be used to produce recycled oil, as defined in
2 paragraph (3) of subdivision (a) of Section 25250.1, at a facility
3 authorized to operate pursuant to Section 25200 or 25200.5 solely
4 by means of a process that has been specifically authorized by the
5 department.

6 (B) If the resultant mixture is transported to a used oil recycling
7 facility located in another state, that facility is authorized by the
8 agency authorized to implement the federal act in that state.

9 (3) The mixing is not conducted in a manner that violates
10 subparagraph (C) of paragraph (3) of subdivision (a) of Section
11 25250.1.

12 (4) The transporter tests the halogen content of the used oil to
13 demonstrate compliance with clause (vi) of subparagraph (B) of
14 paragraph (3) of subdivision (a) of Section 25250.1 before mixing
15 the used oil with the contaminated petroleum product.

16 ~~SEC. 2.—~~

17 *SEC. 4. Section 42702 is added to the Public Resources Code,*
18 *to read:*

19 *42702. On or before July 1, 2004, the Director of*
20 *Transportation and the board shall jointly report to the Legislature*
21 *concerning the implementation of this article.*

22 *(a) The report shall do all of the following:*

23 *(1) Identify and attach copies of bid specifications relating to*
24 *the purchase of materials specified in Section 42700, using*
25 *recycled materials.*

26 *(2) Report on the number of contracts and percentage of*
27 *purchases of materials using each recycled material enumerated*
28 *in Section 42700.*

29 *(3) Report analyses conducted by the Department of*
30 *Transportation regarding the quality and cost of paving materials*
31 *that utilize recycled materials.*

32 *(4) Report on recommendations for increasing the use of*
33 *recycled material in paving materials consistent with equal or*
34 *better quality and equal or lower cost.*

35 *(b) To the extent that the recycled materials are derived from*
36 *used oil recycling, the board shall in addition, consider and*
37 *include in the report steps it could take to enhance the use of those*
38 *materials, whether by research, education, or other means,*
39 *pursuant to Chapter 4 (commencing with Section 48600) of Part*
40 *7.*

1 *SEC. 5.* No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

